AJN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2809 OF 2006

Vitthal Namdeo Chavan ... Petitioner

Vs.

The State of Maharashtra & Ors. ... Respondents

Ms. Nasreen Ayubi, advocate appointed for the petitioner.

Mr. M.S. Mhambre, A.P.P. for the State.

**CORAM : SMT. RANJANA DESAI &**
**D. B. BHOSALE, JJ.**

**DATED : 20TH MARCH, 2007.**

**P.C.:**-

1. We have heard the learned counsel for the petitioner. We have perused the affidavit filed by Mr. Vaibhav Pundlikrao Atram, Jailor Group II, Yerawada Central Prison, Pune. The petitioner is seeking remission. The learned counsel for the petitioner states that the petitioner is 90 years old and, hence, his case may be considered. Paragraphs 6 and 7 of the said affidavit read as under :

> *"6. I say that as per Government Resolution dated 10th January, 2006 in respect of person of 65 years and above only those prisoners who are above 65 years are eligible for the remission provided that,*
>
> *1) they are above 65 years and weak and they have to undergo minimum 14 years sentence.*

> *2) In respect of prisoners above 65 years of age and weak and who are not convicted under (M.P.D.A., T.A.D.A., N.D.P.S. & N.S.A.) and who have undergone half of the sentence awarded to them or minimum 3 years of sentence whichever is less.*
>
> *3) The Government Resolution shall not be applicable to -*
>
> *(a) Prisoner who are undergoing life imprisonment but who have not completed 14 years of actual sentence,*
>
> *(b) Prisoner who have been convicted under M.P.D.A., T.A.D.A., N.D.P.S. & N.S.A.*
>
> *(c) Prisoner who have been convicted upto 3 years.*
>
> *Hereto annexed and marked as Exh. `A' is the copy of the Government Resolution dated 10th January, 2006.*
>
> *7. I say that thus from above it is clear that the present petitioner is undergoing sentence upto 3 years and he is not eligible for remission as per Government Resolution dated 10th January, 2006."*

2. In view of the above, since the petitioner is undergoing sentence for three years, he is not eligible for remission as per Government Resolution dated 10/1/2006. Hence, the petition cannot be entertained. The petition is rejected.

4. A copy of this order be sent to the petitioner in the jail where he is lodged.

[SMT. RANJANA DESAI, J.]

[D. B. BHOSALE, J.]